

13.3.1

26a (משנה א') → 27b (כי הדדי ניהו ש"מ)

- I. 'משנה א': Brothers and Sisters (משניות ב-ג, which are printed here, will be summarized on later pages where the גמרא's discussion about them is taken up)
- a. *setup*: Brothers #1 and #2 (of 4 brothers) married sisters #1 and #2 and died;
  - b. *case*: Sisters #1 & #2 fell to brothers #3 & #4
  - c. *ruling*: both brothers give חליצה only
  - d. *consequences*: if they did ייבום, we enforce separation
    - i. *dissent*: ר"א maintains that ר"ב/ש"ב disagreed:
      1. ש"ז: they may stay married
      2. ז"ה: forced separation
  - e. *reason*:
    - i. *possibility #1*: יש זיקה; each sister is אחות זקוקתו → he may marry neither
    - ii. *possibility #2*: אין זיקה (ר"מ); but אסור לבטל מצוות יבמין:
      1. *concern*: brother #3 will do ייבום on sister #1, then brother #4 will die and sister #2 will go free without any tending to brother #2's household
      2. *challenge*: why select case of 4 brothers, wouldn't this concern exist with only 3 as well?
      3. *response*: correct – more surprising ruling presented – even with 4 (i.e. חיישינן למיתה)
      4. *challenge*: why not raise concern with 5 brothers?
      5. *response*: we aren't concerned about 2 of them dying at that point
- II. New case (testing זיקה): 5 brothers, 3 sisters:
- a. *Setup*: Brothers #1,2,3 (of 5) are married to sisters #1,2,3
  - b. *Case*: Brothers #1,2,3 die
  - c. *רב's ruling*: B4 gives חליצה to S1, B5 gives חליצה to S2 and B4 & B5 give חליצה to S3
    - i. *deconstruction*: based on זיקה; S3 has a זיקה to both B4 and B5
    - ii. *challenge*: all 3 of them should need חליצה from both B4 and B5
      1. *reason*: רב holds that האחין על כל צריכה לחזור על כל האחין (see below)
    - iii. *rather*: Brothers didn't die simultaneously:
      1. *first*: B1 died, S1 fell to the rest, B4 gave חליצה
      2. *second*: B2 died, S2 fell to B3-5, B5 gave her חליצה (B4 could not, since she is אחות חלוצתו and his options are limited to חליצה, the חליצה is "weak")
      3. *third*: B3 died, and neither B4 nor B5 can do a full חליצה because S3 is אחות חלוצת שניהם
      4. *note*: this ruling is premised on the notion יש זיקה, which רב (earlier, יז:) rejects
      5. *answer*: his ruling is on behalf of the position יש זיקה
  - d. *שמואל's ruling*: B4 may give חליצה to all 3 sisters
    - i. *challenge*: שמואל maintains that a full חליצה is always needed
      1. *source*: 2 sisters married to 2 brothers; both brothers die, leaving 1 living brother
      2. *שמואל's ruling*: if the brother gives חליצה to the sisters, their צרות are not released
      3. *therefore*: B2's חליצה (after having given חליצה to the 1<sup>st</sup> sister) should be "weak"
    - ii. *answer#1*: referent is to the 3<sup>rd</sup> sister – only 1 brother needs to give חליצה
      1. *reason*: שמואל maintains that "weak" חליצה doesn't necessitate "covering all bases" by having all brothers perform חליצה
    - iii. *Answer #2*: שמואל opinion about "weak חליצה" is only vis-à-vis releasing the צרה

III. Reevaluating שמאול's ruling:

- a. *Ruling*: if the brother gives חליצה to the sisters, the צרות aren't released (but the inverse works)
  - i. *Analysis*: why distinguish between the sisters and the צרות?
  - ii. *Answer#1*: שמואל is referring to the position אין זיקה (even though he maintains יש זיקה)
  - iii. *Challenge*: if so, either wife's חליצה should release the other
  - iv. *defense*: only refers to 2<sup>nd</sup> wife's צרה
    1. *for example*: if S1 gets חליצה, then S2's חליצה is 'weak' and her צרה is not released
  - v. *challenge*: since there is an איסור against חלוצתו חלוצתו, the צרה of S2 is "knocked out" after he gives חליצה to S1 and therefore his חליצה of צרת S2 is 'weak' and shouldn't release S2
  - vi. *defense*: שמואל referred to sequence:
    1. 1<sup>st</sup>: if he began (חליצה) with the sisters, he shouldn't complete it with the צרות as per above
    2. 2<sup>nd</sup>: if he began with the צרות, he may even complete it with the צרות
      - a. *reason*: מותר אדם בקרובת צרת חלוצתו
  - vii. *Answer #2*: (רב אשי) the זיקה isn't strong enough to equate the צרות to the index ערוה
  - viii. *Answer #3*: (ר' אבא בר ממל) this follows ב"ש who do not equate צרה::ערוה
    1. *challenge*: if so, they should have ייבום as an option
    2. *defense*: we follow ריב"נ's suggestion to promote חליצה in order to cover ב"ש וב"ה
- b. *Ruling*: if the brother gives חליצה to the בעלת הגט<sup>1</sup>, the צרות aren't released (but the inverse works)
- c. *Ruling*: if the brother gives חליצה to מאמר, the צרות aren't released (but the inverse works)
  - i. *Question*: which takes precedence:
    1. *lemma 1*: בעלת הגט, since she has started the route of חליצה OR
    2. *lemma 2*: בעלת מאמר, who is "closer" to ביאה
  - ii. *Answer*: since מאמר אחר גט וגט אחר מאמר, neither is strong enough to block the other → they are equal

<sup>1</sup> A *יבמה* to whom the *במ* gave a *גט* – she now has a "weaker *זיקה*" than the other wives